UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/648,630	08/25/2003	Ernst B. Carter	EXIT-00101	5318

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EXAMINER
POWERS, WILLIAM S

ART UNIT	PAPER NUMBER
2434	

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

PTOL-90A (Rev. 04/07)

Advisory Action *Before the Filing of an Appeal Brief*	**Application No.** *10/648,630*	**Applicant(s)** CARTER ET AL.
	Examiner WILLIAM S. POWERS	**Art Unit** 2434

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED <u>18 May 2009</u> FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☐ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

   a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.

   b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

      Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

<u>NOTICE OF APPEAL</u>

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

<u>AMENDMENTS</u>

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will <u>not</u> be entered because

   (a)☐ They raise new issues that would require further consideration and/or search (see NOTE below);

   (b)☐ They raise the issue of new matter (see NOTE below);

   (c)☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or

   (d)☐ They present additional claims without canceling a corresponding number of finally rejected claims.

      NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).

5. ☐ Applicant's reply has overcome the following rejection(s): _____.

6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).

7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

   The status of the claim(s) is (or will be) as follows:

   Claim(s) allowed: _____.

   Claim(s) objected to: _____.

   Claim(s) rejected: *1-45,47-52 and 59-71*.

   Claim(s) withdrawn from consideration: _____.

<u>AFFIDAVIT OR OTHER EVIDENCE</u>

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will <u>not</u> be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).

9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will <u>not</u> be entered because the affidavit or other evidence failed to overcome <u>all</u> rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).

10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

<u>REQUEST FOR RECONSIDERATION/OTHER</u>

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
   <u>See Continuation Sheet.</u>

12. ☐ Note the attached Information *Disclosure Statement*(s). (PTO/SB/08) Paper No(s). _____

13. ☐ Other: _____.

/Kambiz Zand/
Supervisory Patent Examiner, Art Unit 2434

/W. S. P./
Examiner, Art Unit 2434

Continuation of 11. does NOT place the application in condition for allowance because: As to Applicant's argument that, "the Cryptfs layer is separate from the vnode layer; it is a separate module whose encryption components are not integrated with the vnode layer" (Remarks, p. 11, lines 24-25, the Examiner respectfully disagrees. The Cryptfs module is on the Vnode layer as evidenced by the Abstract and fig. 1. It is also noted that there is no definition provided for the term integrated that would differentiate over the interfacing of the prior art nor is there any claim language that uses the term integrated or any of its derivatives. For at least the reasons above, the rejection to the amended claims is maintained.

As to Applicant's argument, that "The Office Action does not dispute that neither Zadok nor Riedel, either alone or in combination, discloses a kernel that comprises a virtual node that encrypts and decrypts data" (Remarks, p. 12, lines 1-3), the Examiner respectfully disagrees. The Examiner uses the combination of the Zadok and Riedel references to reject the claim limitations. The Applicant tries to distinguish between interface and stacking as used by Zadok. "Before stacking existed, there was only a single vnode interface; higher level operating systems code called the vnode interface which in turn called code for a specific file system. With vnode stacking, several vnode interfaces may exist and may call each other in sequence" (Zadok, p. 2, col. 1, lines 20-24); clearly Zadok uses stacking and interface as complimentary terms. Stacking provides for more than one vnode interface. The vnode does the encryption and decryption through system calls that are translated into vnode level calls, and invoke the interface cryptfs modules. The cryptfs module adds functionality to the vnode; it does not operate separately from the vnode. For at least the reasons above, the rejection to the amended claims is maintained.

As to claims 26, 36 and 48, the arguments are substantially similar to the ones addressed above.

As to Applicant's argument that, "Blaze does not disclose taking a pass key and a data file name to generate an encrypted data file name key. Blaze does not disclose taking that encrypted file name data key and data file contents to generate another key, an encrypted data file contents key." (Remarks, p. 17, 2nd paragraph), the Examiner concedes that the Blaze reference does not have the same verbiage as the claim limitations. However, the Examiner sees the functionality of the claim language in the Blaze reference. A pass key and a data file name are combined, in some way, to generate another key. The data file name is seen as a random number and the procedure merely randomizes the pass key. Similarly, Blaze takes keys that are turned into arbitrary-length "passphrases" (random numbers) that are used to generate the cryptographic keys. For at least the reasons above, the rejection of the claims is maintained.

As to Applicant's further arguments against claims 16 and 40 on p. 17 of the Remarks, the Examiner respectfully disagrees. The arguments amount to a general allegation of patentability and do not address the rejections applied to the limitations by the Examiner. For at least the above reasons, the rejection of the claims is maintained.

As to Applicant's arguments against claims 70 and 71 on pp. 17-18 of the Remarks, the Examiner respectfully disagrees. The arguments amount to a general allegation of patentability and do not address the rejections applied to the limitations by the Examiner. For at least the above reasons, the rejection of the claims is maintained.